

IN THE COURT OF APPEALS OF IOWA

No. 24–0472

Cerro Gordo County No. FECR032417

CORRECTION ORDER

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JASON LEE TYER,
Defendant-Appellant.

With the approval of the entire court, the author of the opinion in the above-captioned case, filed January 9, 2025, has corrected **page 3**, lines 1, 2, and 3 as follows:

Line 1 was: Iowa’s indeterminate sentence law requires the court to impose the

Now: Iowa’s indeterminate sentence law requires the court to designate or set the

Line 2 was: maximum sentence established by statute. *State v. Wilson*, 314 N.W.2d 408, 409

Now: maximum term within the confinements of the statute. *State v. Wilson*, 314 N.W.2d

Line 3 was: (Iowa 1982).

Now: 408, 409 (Iowa 1982).

A copy of the revised material is attached hereto.

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CHICCHELLY, Judge.

Jason Tyer appeals his sentence for domestic abuse assault, third offense. He contends the court imposed an illegal sentence by ordering him to a determinate term of incarceration. Because the sentence imposed by the district court complies with the law, we affirm.

We review Tyer's claim that the district court imposed an illegal sentence for correction of errors at law. See *State v. Lee*, 6 N.W.3d 703, 706 (Iowa 2024). A sentence is illegal if it is not permitted by statute. *Id.* The court imposes an illegal sentence when it sentences a defendant to a term that is outside the statutory bounds. *State v. Wade*, 7 N.W.3d 511, 514 (Iowa 2024).

Tyer pled guilty to one count of domestic abuse assault, third offense, a class "D" felony.¹ The district court sentenced Tyer to an indeterminate term of no more than five years, and it ordered Tyer to serve all five years before being eligible for parole or work release. Iowa Code section 902.3 states that for felony convictions other than a class "A" felony, the court must impose a sentence of confinement "for an indeterminate term."² Tyer contends that because the court ordered him to serve a minimum sentence that is identical to the maximum term allowed by law, the court imposed a determinate sentence in violation of Iowa Code section 902.3.³

¹ A defendant who pleads guilty must show "good cause" to appeal. See Iowa Code § 814.6(1)(a)(3) (2023). Because Tyer is challenging the discretionary sentence imposed on his conviction rather than the plea itself, he has good cause to appeal. See *State v. Damme*, 944 N.W.2d 98, 105 (Iowa 2020).

² The maximum sentence for a conviction of a class "D" felony is "no more than five years." Iowa Code § 902.9(1)(e).

³ No Iowa cases have addressed whether the court may impose a minimum sentence that is equal to the statutory maximum. Some jurisdictions require "an appreciable amount of difference between the minimum and the maximum terms" of an indeterminate sentence. Arthur W. Campbell, *Law of Sentencing* § 4:2 Indeterminate sentencing (Oct. 2023 Update); accord G. Van Ingen, Annotation,

Iowa's indeterminate sentence law requires the court to designate or set the maximum term within the confinements of the statute. *State v. Wilson*, 314 N.W.2d 408, 409 (Iowa 1982).

A determinate sentence imposes a specific number of years of imprisonment on a defendant, while an indeterminate sentence is one in which the legislature has set a range of the minimum and maximum amount of years deemed appropriate for the crime. Indeterminate sentences are parole eligible, while determinate sentences are not.

State v. Propps, 897 N.W.2d 91, 97 (Iowa 2017) (internal citation omitted). In absence of a statute setting a minimum sentence, the duration of the sentence is

Validity, Under Indeterminate Sentence Law, of Sentence Fixing Identical Minimum and Maximum Terms of Imprisonment, 29 A.L.R.2d 1344 (1953) (citing cases supporting “the principle that, under an indeterminate sentence law, the sentence cannot be for a definite term of imprisonment, but must be for not less than a specified period of time and for not more than a specified period, and there must be a difference between such periods, so that a sentence under such a law fixing identical minimum and maximum terms of imprisonment is invalid”). Many jurisdictions that require a differential in minimum and maximum sentences cite sentencing statutes that require it. See, e.g., *State v. Sutton*, 498 A.2d 65, 67–68 (Conn. 1985) (requiring that “the minimum sentence imposed could not exceed one-half the maximum”); *State v. Wheeler*, 499 A.2d 1005, 1007 (N.H. 1985) (requiring “that the minimum term may not exceed one-half the maximum”); *People v. Edwards*, 503 N.Y.S.2d 40, 41 (App. Div. 1986) (requiring a minimum sentence of one-half the maximum for class B armed felony offenses and one-third the maximum for all others). Some jurisdictions allow indeterminate sentences imposing identical minimum and maximum sentences based on the absence of statutory language requiring a differential. See, e.g., *Commonwealth v. Hogan*, 456 N.E.2d 1162, 1164 (Mass. App. Ct. 1983) (noting that, unlike in other jurisdictions, sentencing statute does not include “a specified differential between the minimum and maximum terms imposed” and refusing to imply one in the absence of such language); *State ex rel. Brinkley v. Wright*, 241 S.W.2d 859, 860–61 (Tenn. 1951) (finding, “in the absence of statutory prohibition,” that indeterminate sentence fixing the same term for maximum and minimum sentence was not illegal). Iowa’s sentencing laws are silent on the question of imposing different minimum and maximum sentences.



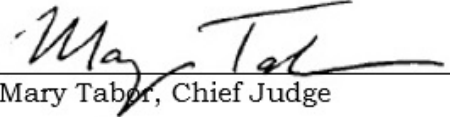
IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
24-0472

Case Title
State v. Tyer

So Ordered


Mary Tabor, Chief Judge

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